

BOARD OF SELECTMEN

Minutes of the Meeting of 19 May 2005 at 4:00 PM. The meeting took place in the Nantucket High School Cafeteria, 10 Surfside Road, Nantucket, MA 02554. Members of the Board present were Douglas Bennett, Whiting Willauer, Michael Glowacki and Brian Chadwick. Bruce Watts was absent. Chairman Glowacki called the meeting to order at 4:10 PM.

Public Hearing to Consider Application of A Safe Place for Public Assembly Permit for Fundraising Event Scheduled July 9, 2005 at Nantucket Whaling Museum. Chairman Glowacki opened the hearing and asked if any individual was present who wished to speak in favor of, or in opposition to the application. As there was no response, Chairman Glowacki closed the hearing and Mr. Chadwick moved to approve the application; seconded by Mr. Willauer. So voted.

Public Hearing to Consider Application of Nantucket Cottage Hospital for Public Assembly Permit for "Pops on Nantucket 2005" Scheduled for August 13, 2005 from 5:00 PM to 10:00 PM. Chairman Glowacki opened the hearing and asked if any individual was present who wished to speak in favor of, or in opposition to the application. Lucille Giddings, president of Nantucket Cottage Hospital, stated that a typographical error was made in the request letter and the hospital is asking for an 11:00 PM closure time, not 10:00 PM. As no other individual was present to speak on the application, Chairman Glowacki closed the hearing. Mr. Chadwick moved to approve the application with the 11:00 PM end time; seconded by Mr. Willauer. So voted.

Public Hearing to Consider Application of Nantucket Atheneum for Public Assembly Permit for "Circus Flora 2005" Scheduled for July 30-31 at Tom Nevers Field. Chairman Glowacki opened the hearing and asked if any individual was present who wished to speak in favor of, or in opposition to the application. As there was no response, Chairman Glowacki closed the hearing and Mr. Chadwick moved to approve the application; seconded by Mr. Willauer. So voted.

Chairman Glowacki excused himself from the table and left the room thus abstaining from the following Public Hearings.

Public Hearing to Hear Appeal of Robert Paterson, Kelly Paterson and Charles Sayle of Historic District Commission Certificate of Appropriateness No. 45,375 to Approve Commercial Boat Building (Great Harbor Yacht Club) for Premises Situated at 96/97 Washington Street Extension. Vice-Chairman Bennett, acting as Chairman, swore in those individuals who would be providing testimony at the hearing. It was noted that appellants Robert and Kelly Paterson have withdrawn from the appeal leaving Charles Sayle III the only appellant. Acting chairman Bennett opened the hearing. Historic District Commission (HDC) chairman Dirk Roggeveen called for a point of order and stated that, in his opinion, selectman Whitey Willauer is not a "disinterested person" and should recuse himself from this hearing. It was also noted that Sarah Alger, attorney for Great Harbor Yacht Club (GHYC), submitted a letter to the Board asking that Mr. Willauer step down from all appeals regarding the GHYC because he has appeared in opposition to the GHYC project before the Conservation Commission and the Planning Board, as well as the HDC before he was elected a selectman in April, 2005. Ms. Alger's letter also stated that Mr. Willauer is a director of the non-profit organization Save our Waterfront (SOW) that provides funding to support litigation involving GHYC. Mr. Willauer responded that he resigned from SOS in February 2005 and has consulted with both the Ethics Commission and Town Counsel as to whether he should sit on the appeal and he has "passed their scrutiny" and will not recuse himself. Mr. Moncure Chatfield-Taylor

also raised an objection to the fact that Mr. Watts was absent. Mr. Chatfield-Taylor asked that the hearing be continued until a full Board is present. Acting chairman Bennett stated he intended to proceed with the hearing. Appellant Charles Sayle III spoke in opposition to the approval of the maintenance building stating that the application was "not properly reviewed." Also speaking in opposition was Nantucket resident David Wiley, who stated that the HDC was "arbitrary" because the new building is "not in keeping with the neighborhood." Moncure Chatfield-Taylor again objected to the fact that a full Board was not present and expressed his opinion that the building is a bad design and unsafe because of its close proximity to the street. Mr. Chatfield-Taylor stated the building "flies in the face of what is good design and preservation."

Acting chairman Bennett asked who wished to speak in opposition to the appeal and Attorney Alger stated the applicants were before the HDC for "well over a year," and made numerous changes to the plans, as requested by the HDC. Ms. Alger told the Board that it is not its job to judge the project on its architectural merits only to rule as to whether the HDC was "arbitrary or capricious." Ms. Alger, noting that only three of the five member Board of Selectmen are sitting on this matter, also raised an objection, pursuant to Section 11 of the Massachusetts Session Laws. Ms. Alger contended that any vote to uphold the appeal must be made by a majority of the members of the Board, and not a majority of the members sitting. HDC Commissioner Dirk Roggeveen concurred with Ms. Alger. Ms. Alger defended the design of the boat building stating that commercial designs have different requirements than residential structures. Ms. Alger spoke about ridge lines on various other commercial buildings in the downtown area (i.e. Steamship Authority). Acting Chairman Bennett closed the hearing and some discussion followed with regard to Ms. Alger's earlier objections. Acting Chairman Bennett asked Town Counsel DeRensis for his opinion on the matter and Mr. DeRensis responded that he is taking Ms. Alger's position on the voting matter "under advisement" as he wanted to review recent Massachusetts Supreme Judicial Court rulings. Mr. Roggeveen expressed his opinion that this should not preclude the Board from voting on the matter. After some additional discussion, Mr. Chadwick moved to uphold the HDC's approval of Certificate of Appropriateness No. 45,375; seconded by Acting Chairman Bennett. So voted. Mr. Willauer abstained.

Public Hearing to Hear Appeal of Moncure Chatfield-Taylor of Historic District Commission Certificate of Appropriateness No. 45,312 to Approve Sports Barn (Great Harbor Yacht Club) for Premises Situated at 96/97 Washington Street Extension. Acting Chairman Bennett swore in those individuals who would be giving testimony and opened the hearing by asking who wished to speak in favor of the appeal. Moncure Chatfield-Taylor reiterated the objection he made in the previous hearing that this matter should not go forward without a full Board participating. Acting Chairman Bennett stated the hearing will go forward and Mr. Chatfield-Taylor proceeded by stating that he believes there are significant discrepancies in the elevations, as presented in the plans. Mr. Chatfield-Taylor further stated he believes the building's size, height, length and massing are inappropriate and incompatible with the immediate neighborhood in which it will be located. Mr. Chatfield-Taylor also expressed his opinion that the site plan presented by Great Harbor Yacht Club (GHYC) showed elevations that differed from the application (certificate of appropriateness) and some discussion followed concerning the "line" that exists between existing and proposed grade. Mr. Dirk Roggeveen stated that the "grade" issue was discussed repeatedly at meetings and

the HDC is satisfied that the building is less than 30 feet in grade. Mr. Roggeveen added that, in any event, this would be a zoning issue and not one for the HDC to regulate. Also speaking in favor of the appeal were Nantucket residents David Wiley and John Wagley. Mr. Wiley stated that he is still "not comfortable" with Mr. Roggeveen's explanation about the "grade" issue. Mr. Wagley expressed his opinion that the proposed squash courts "contradict" the HDC guideline book "Building with Nantucket in Mind" and he does not believe the waterfront is a place for a sports barn and the HDC did not make a wise decision based on "use."

Sarah Alger reiterated a statement made in the previously heard appeal that selectman Willauer should recuse himself from sitting on the appeal because of his involvement with Save our Waterfront (SOW) and his appearance before other Boards objecting to GHYC applications. Ms. Alger also repeated a statement made in the previous appeal that, pursuant to Section 11 of the Massachusetts Session Laws, any vote to uphold this appeal must be made by a majority of the members of the Board, and not a majority of the members sitting. Acting Chairman Bennett closed the hearing and Mr. Willauer asked some more questions about the "grade." Mr. Chadwick stated that he does not believe the "grade" is an issue. After some additional discussion, Mr. Chadwick moved to uphold the decision of the HDC as written in Certificate of Appropriateness No. 45,312 to approve a sports barn; seconded by Acting Chairman Bennett. So voted. Mr. Willauer abstained.

Public Hearing to Consider Application of Friends of Nantucket Public Schools for Public Assembly Permit for "Third Annual Celebrity Softball Game" Scheduled for July 13, 2005 at Nantucket High School. Acting Chairman Bennett opened the hearing and asked if any individual was present who wished to speak in favor or, or in opposition to the application. Sheila Clinger, chairperson of the event, spoke in favor. As no individual was present to speak in opposition to the application, Acting Chairman Bennett closed the hearing and Mr. Chadwick moved to approve the application; seconded by Mr. Willauer. So voted.

Public Hearing to Consider Application of Nantucket Film Festival for Public Assembly Permit for Event Scheduled June 18, 2005 at Nantucket Memorial Airport. Acting Chairman Bennett opened the hearing and asked if any individual was present who wished to speak in favor of, or in opposition to the application. As no individual spoke on the matter, Acting Chairman Bennett closed the hearing. Mr. Chadwick moved to approve the application; seconded by Mr. Willauer. So voted.

Public Hearing to Consider Application of Wachovia Securities LLC for Public Assembly Permit for Event Scheduled June 30, 2005 at Nantucket Memorial Airport. Acting Chairman Bennett opened the hearing and asked if any individual was present who wished to speak in favor of, or in opposition to the application. Kimberly Reid, caterer for the event, spoke in favor. As no individual spoke in opposition, Acting Chairman Bennett closed the hearing. Mr. Chadwick moved to approve the application; seconded by Mr. Willauer. So voted.

Public Hearing to Consider Transfer of Annual All Alcoholic Beverages Restaurant License from Winthrop National Two Ltd Partnership d/b/a Atlantic Café to Island Oak d/b/a Atlantic Café, John J. O'Connor, Manager, for Premises Situated at 15 South Water Street. Acting Chairman Bennett

opened the hearing and asked if any individual was present who wished to speak in favor of, or in opposition to the application. John O'Connor, proprietor of the Atlantic Cafe, explained that the application is intended to transfer the existing license from the landlord (Winthrop Partnership which is selling its properties) to the existing tenant and he will remain the manager. As no individual spoke in opposition, Acting Chairman Bennett closed the hearing. Mr. Chadwick moved to approve the application; seconded by Mr. Willauer. So voted.

Public Hearing to Consider Application for Seasonal All Alcoholic Beverages Restaurant License for Black Island Corporation d/b/a Black Angus Grill, Michael Alfeld, Manager, for Premises Situated at Old South Road. Acting Chairman Bennett opened the hearing and asked if any individual was present who wished to speak in favor of, or in opposition to the application. Michael Alfeld, proprietor of the establishment, spoke in favor and explained that he inadvertently missed the deadline for renewal of the existing liquor license and consequently had to make a new filing. As no individual spoke in opposition, Acting Chairman Bennett closed the hearing. Mr. Chadwick moved to approve the application; seconded by Mr. Willauer. So voted.

At 6:00 PM, Chairman Glowacki returned to the meeting, took his seat at the table and resumed his duties as Chairman.

Public Hearing to Consider New Application for Annual All Alcoholic Beverages Restaurant License for the Hen House, Michael Gillies, Manager, for Premises Located at 1 Chin's Way. Chairman Glowacki opened the hearing and asked whether any individual was present who wished to speak in favor of, or in opposition to the application. Hen House proprietor Michael Gillies spoke in favor and explained the proposed operation. As there was no opposition, Chairman Glowacki closed the hearing. Mr. Bennett moved to approve the application; seconded by Mr. Willauer. So voted.

Public Hearing to Consider Amending Taxi Regulations to Include Regulations for an Accessible Taxicab. Chairman Glowacki opened the hearing and asked who wished to speak on the matter. Town Administrator Libby Gibson explained that one year ago the Board of Selectmen, at the request of the Commission on Disability, voted to approve one additional taxi license to be used for year-round accessible taxi service for disabled individuals, especially for those who use motorized wheelchairs. Commission on Disability chairman Mickey Rowland also spoke on the need for an accessible taxicab. As no other individual spoke on the matter, Chairman Glowacki closed the hearing. Mr. Bennett moved to amend the Taxi Regulations so as to include regulations for one accessible taxicab; seconded by Mr. Chadwick. So voted.

Public Hearing, pursuant to Chapter 137-3 of the Wharves and Waterways Bylaw of the Code of the Town of Nantucket, to Consider New Dock Fee for Commercial Fishing Boats Using East End of Town Pier (recommended fee is \$0.50/ft per day). Chairman Glowacki opened the hearing and asked if any individual was present who wished to speak in favor of, or in opposition to the proposed new fee. Marine Superintendent Dave Fronzuto explained that the Harbor and Shellfish Advisory Board (SHAB) brought this proposal forward. Mr. Fronzuto explained that the fee structure for commercial slips on the "floating" dock for Nantucket's local fishermen was increased last year, but a group of off-island commercial vessels come to the island each summer making Nantucket home for the summer "free of charge." Mr. Fronzuto added that these fishermen use the

Town's facilities and offload trash. Mr. Fronzuto stated that the proposed charge for the use of the east end of the Town Pier will not realize a "great deal of revenue" for the town and will not be enough to complete town pier repairs, but will bring "parity" to both groups of fishermen. As no other individual spoke on the matter, Chairman Glowacki closed the hearing. Mr. Chadwick moved to adopt a new fee of \$0.50/ft for commercial fishing boats using the east end of the Town Pier, as recommended; seconded by Mr. Willauer. So voted.

Public Hearing, pursuant to Massachusetts General Law Chapter 85, Section 3, to Re-Consider Re-Naming Portion of Macys Lane Running Southerly from Old South Road to Evergreen Way. Chairman Glowacki opened the hearing and asked if any individual was present who wished to speak in favor of, or in opposition to re-naming a portion of Macys Lane. Town Administrator Libby Gibson explained that the Board approved the re-naming of the street at its meeting of February 9, 2005 but it is unclear whether the Nantucket Inn, as an abutter, was properly notified and they are opposed to the name change. Assessor Debbie Dilworth explained why the name change is being requested. Scott Thomas, general manager of the Nantucket Inn, stated he wants to retain Macys Lane as the address for the Inn. Police Chief William Pittman and Deputy Chief Charles Gibson spoke on why it is important, from a public safety aspect, to change the name of Macys Lane, noting the rapid increase of development on Macys Lane and the fact that the Assessor has been forced to use "letters", "1/2s" and "rear" for street numbers. Chief Pittman stated that this numbering system is confusing and it is feared a 911 or other emergency call could be delayed. Chairman Glowacki closed the hearing and Mr. Chadwick moved to keep Airport Road as the new name of the road from the intersection of Old South Road to Evergreen Way; seconded by Mr. Bennett. So voted.

At 6:20 PM, Chairman Glowacki polled the Board and Mr. Willauer, Mr. Chadwick, Mr. Bennett and Chairman Glowacki voted unanimously to adjourn to Executive Session, not to return to Open Session, for the purpose of approving minutes and discussing real estate acquisition/disposition.

Approved the 22nd day of June 2005.